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Filing date: **07/13/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212861
Party	Defendant Bacardi & Company Limited
Correspondence Address	JANICE HOUSEY SYMBUS LAW GROUP PO BOX 11085 MC LEAN, VA 22102-7985 UNITED STATES jhousey@symbus.com
Submission	Other Motions/Papers
Filer's Name	Janice Housey
Filer's e-mail	jhousey@symbus.com
Signature	/Janice Housey/
Date	07/13/2015
Attachments	91212861 DEWAR'S LIVE TRUE Def's Response to Motion 7-13-15.pdf(40862 bytes) Email re missing Deposition Documents 9-9-14.pdf(47711 bytes) email regarding missing documents from Fairmont.pdf(63683 bytes) Def's Documents sent 8-22-14.pdf(65338 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Fairmont Holdings, Inc.
Opposer,

v.

Bacardi & Company Limited
Applicant.

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Opposition No. 91212861

Mark: DEWAR'S LIVE TRUE

**DEFENDANT'S RESPONSE TO PLAINTIFF'S
MOTION TO SUSPEND PROCEEDINGS**

This responds to Plaintiff's Motion to Suspend Proceedings filed on June 26, 2015. Plaintiff's Motion is disingenuous and purely for the purpose of delay.

Plaintiff's co-counsel, Robert Schwartz, emailed Defendant's counsel at 9:27 a.m. on June 26, 2015, requesting an extension of time for this proceeding because Plaintiff had (again) neglected settlement discussions until right before the latest extension ran out. At 9:48 a.m. on June 26, 2015, Defendant's counsel responded to Plaintiff's co-counsel by email and agreed to a 15-day extension, in order to try to ensure that settlement was not consistently ignored for one month. Plaintiff then filed its Motion to Suspend despite this clear and prompt agreement to an extension of (reasonable) time.

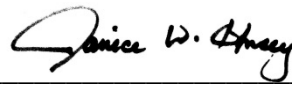
Plaintiff's allegation that Defendant failed to provide discovery documents is extremely disingenuous. Defendant's discovery documents were properly sent to Plaintiff's counsel by email on August 22, 2014. (A copy of the email is attached.)

Further, Plaintiff makes its spurious allegation even though Plaintiff has not provided the supplemental documents to Defendant that Plaintiff agreed to provide after Defendant's deposition of Plaintiff in September of 2014! (See attached emails.)

Wherefore, Defendant respectfully request's that Plaintiff's Motion to Suspend be denied and dates be reset accordingly so that proceedings cannot be unilaterally suspended.

Respectfully submitted,

Bacardi & Company Limited



Janice W. Housey
Counsel for Applicant

Date: July 13, 2015

Janice W. Housey
Symbus Law Group, LLC
PO Box 11085
McLean, VA 22102
703.957.5274 office
540.518.9037 fax

CERTIFICATE OF SERVICE

On this 13th day of July 2015, a true and correct copy of the foregoing DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION TO SUSPEND PROCEEDINGS is being sent via email, as agreed by the parties, to :

kim@kkolbacklaw.com

Kim Kolback
Law Offices of Kimberly Kolback
1395 Brickell Ave., Suite 800
Miami, FL 33131



Janice W. Housey

Helene Stanonik

From: Janice Housey
Sent: Tuesday, September 09, 2014 11:08 PM
To: kim@kkolbacklaw.com
Cc: Helene Stanonik
Subject: Following Up from depositions

Kim:

As we discussed briefly, comments made during both depositions are at distinct odds from statements made in connection with the written discovery responses (admissions, interrogatories and document requests). Please review the written discovery again with your client and supplement your responses so that we have a clear record. Please also provide the documents that you indicated were being withheld for confidentiality.

Janice

Janice Housey
Symbus Law Group, LLC
PO Box 11085
McLean, VA 22102
703.957.5274 office
703.851.6737 cell
540.518.9037 fax

Courier Address: 1934 Old Gallows Road, Suite 350, Vienna, VA 22182

ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

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Janice Housey

From: Kimberly Kolback <kim@kkolbacklaw.com>
Sent: Friday, October 10, 2014 1:39 PM
To: Janice Housey
Subject: Re: Document issues that were raised during depositions

Follow Up Flag: Follow up
Flag Status: Completed

My client has been traveling. He advised that he would work on getting you these documents soon.
Regards, Kim

----- Original Message -----

From: [Janice Housey](#)
To: kim@kkolbacklaw.com
Cc: [Helene Stanonik](#)
Sent: Tuesday, September 30, 2014 11:57 PM
Subject: RE: Document issues that were raised during depositions

Kim:

I apologize, instead of "saving" I pressed send. This email is the full one.

Kim:

As you know, a number of your client's answers differed in the deposition and the written discovery. I have previously asked for corrections, additional documents that your client indicated exist etc. and have not received the same.

Please provide the following to me by October 9, including revising/supplementing responses to written discovery requests as required to ensure a clear and accurate record:

- Information and documentation about the license of the LIVE TRUE mark by Opposer to one or more third parties
- Information about the relationship between Opposer and Alec Bradley
- Documentation supporting first use of LIVE TRUE on a bottle of wine, the original bottle of wine
- Documents about the COLA application
- Documents about any sale of any wine with LIVE TRUE prior to January 2014
- Documents about any shipment of wine prior to January 2014
- Documentation to support use of wine at trade shows
- Examples of each type of LIVE TRUE label on wine
- Revised goods available under the LIVE TRUE mark
- Documents showing others using LIVE TRUE
- Documentation regarding "actual confusion"

Janice

Janice Housey
Symbus Law Group, LLC

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Helene Stanonik

From: Helene Stanonik
Sent: Friday, August 22, 2014 1:21 PM
To: kim@kkolbacklaw.com
Cc: Janice Housey
Subject: 91212861 DEWAR'S LIVE TRUE Applicant's Discovery Responses
Attachments: 91212861 DEWAR'S LIVE TRUE Applicant's Responses to Interrogs 8 22 14.pdf;
91212861 DEWAR'S LIVE TRUE Applicant's Responses to Requests for Admissions 8 22 14.pdf; 91212861 DEWAR'S LIVE TRUE Applicant's Responses to Document Requests 8 22 14.pdf; 91212861 Applicant's Documents Produced 8-22-14.zip

Kim:

Please find attached:

- APPLICANT BACARDI & COMPANY LIMITED'S RESPONSES TO OPPOSERS'S FIRST SET OF INTERROGATORIES
- APPLICANT BACARDI & COMPANY LIMITED'S RESPONSES TO OPPOSER'S FIRST REQUESTS FOR ADMISSIONS
- APPLICANT BACARDI & COMPANY LIMITED'S RESPONSES TO OPPOSERS'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS AND THINGS

Applicant's documents produced in connection with these responses are also attached.

Best regards,

Helene

Helene Stanonik
Legal Assistant
Symbus Law Group, LLC
PO Box 11085
McLean, VA 22102
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540.518.9037 fax
Courier Address: 1934 Old Gallows Road, Suite 350, Vienna, VA 22182

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